

IN THE COURT OF CRIMINAL APPEALS
AUSTIN, TEXAS

FILED
COURT OF CRIMINAL APPEALS
10/11/2017
DEANA WILLIAMSON, CLERK

JOSHUA GOLLIDAY
APPELLANT

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VS.

NO. PD-0812-17

THE STATE OF TEXAS
APPELLEE

**APPELLANT'S MOTION FOR EXTENSION OF TIME
TO REPLY TO STATE'S PETITION FOR DISCRETIONARY REVIEW**

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

Appellant requests that the Court grant an extension for (45) days until November 27, 2017, to file the Appellant's Reply to the State's Petition for Discretionary Review. The following allegations are made in support of this motion:

I.

The trial court is the 371st District of Tarrant County, Texas, the Honorable Vicki Isaaks and the Honorable Mollee Westfall, presiding. The style and number of the case in the trial court are: State of Texas v. Joshua Golliday, No. 1379815D.

II.

Appellant was charged with Sexual Assault. CR. I-6. Appellant pled not guilty. CR. I-113. Appellant was found guilty by the jury, which recommended

probation. CR. I-113. Appellant was sentenced to two years. The trial court placed Appellant on seven years probation. CR. I-113. Appellant is on appeal bond.

Judgment was entered on October 22, 2015. CR. I-113.

III.

On October 13, 2016 the court of appeals issued a panel decision reversing Appellant's conviction. Golliday v. State, No. 02-15-00416CR, 2016 WL 5957022 (Tex.App. -- Fort Worth Oct. 13, 2016, no. pet. h.) (mem. op., not designated for publication). On July 27, 2017 the court of appeals issued a new en banc published opinion on the State's motion for reconsideration en banc. Golliday v. State, __ S.W.3d. __, No. 02-1500416-CR, 2017 WL 3196479, at *1 (Tex.App. -- Fort Worth July 27, 2017, no pet. h.) (en banc 5-4).

The State's petition for discretionary review was originally due on Monday, August 28, 2017. See TEX. R. APP. P. 68.2(a). On August 3, 2017, the State filed its first motion for extension of time to file a petition for discretionary review and requested an extension of 30 days for the filing of the State's petition for discretionary review. On August 3, 2017, the Court of Criminal Appeals granted the State's motion for extension of time and ordered that the State's Petition for Discretionary Review was due on September 27, 2017. Thus, the State was allowed from July 27, 2017 until September 27, 2017 (approximately 60 days) to

work on its PDR. On September 27, 2017, the State filed its Petition for Discretionary Review. Rule 68.9 allows the opposing party 15 days to file a reply petition with the clerk of the Court of Criminal Appeals, meaning the reply petition would be due on October 12, 2017. The State's PDR is just under the 4500 word limit.

IV.

Counsel for Appellant is scheduled for trial in district courts in Tarrant County on October 16, 2017 in State v. Montral Gross (1461772 in D213) and on November 6, 2017 in State v. Archer Johnson (1452126 in CDC2).

And just as counsel for the State was on vacation in August, counsel for Appellant was on vacation September 21 to 25, 2017 and is catching up on accumulated work.

V.

The State had from July 27 until September 27 to work on this PDR. As the State noted in its motion for extension: "This extension is not requested for purposes of delay, but to adequately present to this court the reason it should review and reverse the court of appeals decision. In light of the press of other cases, and the time needed to properly review, reflect upon, and respond to the court of appeals opinion, which involves complex constitutional and evidentiary issues, the Appellant prays for additional time in which to prepare and file its reply

to state's petition for discretionary review. See TEX. R. APP. P. 68.2(c) ("The Court of Criminal Appeals may extend the time to file a petition for discretionary review if a party files a motion . . . no later than 15 days after the last day for filing the petition")." Appellant states that just as the State noted "the complex constitutional and evidentiary issues," the same applies to Appellant's side of the case and therefore Appellant is requesting an equal amount of time to prepare Appellant's reply.

Therefore, the Appellant prays that this Court grant Appellant's Motion for Extension of Time for Filing Appellant's a Reply to States Petition for Discretionary Review and extend the time for filing of the Appellant's petition to November 27, 2017.

Respectfully submitted,

/s/ Don Hase

DON HASE

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ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion for Extension of Time to file Reply to State's Petition for Discretionary Review was delivered electronically to the Post-Conviction Division of the Tarrant County District Attorney's Office, Fort Worth, Texas and the State Prosecuting Attorney, on this the 10th day of October, 2017.

/s/ Don Hase

DON HASE

Attorney for Defendant